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Forty-ninth session
SIXTH COMMITTEE
Agenda item 137

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SIXTH SESSION

Draft resolution proposed by the Chairman

Report of the International Law Commission on the work of its forty-sixth session

The General Assembly,

Having considered, the report of the International Law Commission on the work of its forty-sixth session, 1/

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations 2/ and to give increased importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

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1/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10).

2/ Resolution 2625 (XXV), annex.

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recognizing the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Considering that experience has demonstrated the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report, and that this process is facilitated when the Commission indicates specific issues on which expressions of views by Governments are of particular interest for the continuation of its work,

1. Takes note of the report of the International Law Commission on the work of its forty-sixth session;

2. Expresses its appreciation to the International Law Commission for the work accomplished at that session, in particular for the completion of a draft statute for an international criminal court and the adoption of final draft articles on the law of the non-navigational uses of international watercourses;

3. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

4. Notes the intentions of the International Law Commission for the programme of work for the remainder of the current term of office of its members, 3/ and urges the Commission to resume at its forty-seventh session the work on the draft Code of Crimes against the Peace and Security of Mankind and on State responsibility in such a manner that the second reading of the draft Code and the first reading of the articles on State responsibility may be completed before the end of the present term of office of the members of the Commission;

5. Requests the Secretary-General to update the survey of State practice relevant to international liability for injurious consequences arising out of acts not prohibited by international law, prepared by the Secretariat in 1984, 4/ as a useful contribution to the ongoing work of the Commission on the topic;

3/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), para. 390.

4/ Yearbook of the International Law Commission, 1985, vol. II, part I (addendum).

6. Endorses the intention of the International Law Commission to undertake work on the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on nationality of natural and legal persons", on the understanding that the final form to be given to the work on these topics shall be decided after a preliminary study is presented to the General Assembly, and, in connection with the latter topic, requests the Secretary-General to invite Governments to submit by 1 March 1995 relevant materials including national legislation, decisions of national tribunals and diplomatic and official correspondence relevant to the topic;

7. Expresses its appreciation for the efforts of the International Law Commission to improve its procedures and methods of work;

8. Requests the International Law Commission:

(a) To consider thoroughly:

(i) The planning of its activities and programme for the term of office of its members, bearing in mind the desirability of achieving as much progress as possible in the preparation of draft articles on specific topics;

(ii) Its methods of work in all their aspects, bearing in mind that the staggering of the consideration of some topics might contribute, inter alia, to a more effective consideration of its report in the Sixth Committee;

(b) To continue to pay special attention to indicating in its annual report, for each topic, those specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest for the continuation of its work;

9. Takes note of the comments of the International Law Commission on the question of the duration of its session, as presented in its report, 5/ and expresses the view that the requirements of the work for the progressive development of international law and its codification and the magnitude and complexity of the subjects on the agenda of the Commission make it desirable that the usual duration of its sessions be maintained;

10. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

11. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make

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5/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), para. 402.

the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars, from within existing resources, with adequate services, including interpretation, as required;

12. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the forty-ninth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate;

13. Recommends the continuation of efforts to improve the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work;

14. Also recommends that the debate on the report of the International Law Commission at the fiftieth session of the General Assembly commence on 23 October 1995.

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Agenda item 135

CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES

Argentina, Austria, Canada, Chile, Czech Republic, Denmark, Finland, Germany, Hungary, Iceland, Netherlands, Norway, Republic of Moldova, Romania, Russian Federation, Sweden, Turkey and Uruguay: draft resolution

The General Assembly,

Having considered the report of the Secretary-General, 1/

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Alarmed by the repeated acts of violence against diplomatic and consular representatives, as well as against representatives of international intergovernmental organizations and officials of such organizations, which endanger or take innocent lives and seriously impede the normal work of such representatives and officials,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

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1/ A/49/295 and Add.1 and 2.

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the diplomatic or consular functions,

Emphasizing the duty of States to take all appropriate measures as required by international law, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established under General Assembly resolution 35/168 of 15 December 1980 and further elaborated in later Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. Takes note of the report of the Secretary-General;

2. Strongly condemns acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives of international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. Urges States to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. Also urges States to take all necessary measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above and to bring offenders to justice;

5. Recommends that States should cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State, with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives and with regard to the exchange of information on the circumstances of all serious violations thereof;

6. Urges States to take all appropriate measures, in accordance with international law, at the national and international levels to prevent any abuse

of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. Recommends that States should cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its judicial authorities in order to bring offenders to justice;

8. Calls upon States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. Also calls upon States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. Requests all States to report to the Secretary-General in accordance with paragraph 9 of resolution 42/154 of 7 December 1987;

11. Requests the Secretary-General to issue a report on the item, in accordance with paragraph 12 of resolution 42/154, containing also an analytical summary of the reports received under paragraph 10 above, on an annual basis, as well as to proceed with his other tasks pursuant to the same resolution;

12. Decides to include in the provisional agenda of its fifty-first session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".